

nonfat milk solids, sterilized, (concentrated to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

[58 FR 27823, May 11, 1993]

#### § 1036.16 Fluid cream product.

*Fluid cream product* means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

[58 FR 27823, May 11, 1993]

#### § 1036.17 Filled milk.

*Filled milk* means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

#### § 1036.18 Cooperative association.

*Cooperative association* means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or

marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

#### § 1036.19 Reload point.

*Reload point* means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. A reload operation on the premises of a plant shall be considered a part of the plant operation.

#### § 1036.20 [Reserved]

#### § 1036.21 Commercial food processing establishment.

*Commercial food processing establishment* means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1036.13, 1036.41 and 1036.52.

[58 FR 27823, May 11, 1993]

#### HANDLER REPORTS

#### § 1036.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, reports of receipts and utilization for such month shall be made to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler operating a pool plant shall report for each of his pool plants:

(1) Receipts of skim milk and butterfat contained in or represented by:

(i) Producer milk, showing in the case of milk received directly from each producer the pounds of milk, the butterfat and milk protein contained in the milk, and the somatic cell count of the milk;

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(ii) Fluid milk products and fluid cream products from other pool plants and from a handler defined in § 1036.9(c) that also operates a pool plant; and

(iii) Other source milk;

(2) Inventories at the beginning and end of the month of the following products:

(i) Fluid milk products; and

(ii) Fluid cream products, showing separately such inventories in bulk form and in packaged form;

(3) The utilization or disposition of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately:

(i) Total route disposition and route disposition in the marketing area, showing separately such disposition of filled milk inside and outside the marketing area; and

(ii) Transfers and diversions to other plants, and the butterfat and milk protein content of such milk;

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat and milk protein, and somatic cell count, as the market administrator may prescribe;

(b) Each cooperative association shall report:

(1) The quantities of skim milk, butterfat and milk protein, and somatic cell count contained in milk from producers for which it is the handler pursuant to § 1036.9 (b) or (c), showing:

(i) The quantity of milk delivered to each plant; and

(ii) For each producer the pounds of milk, butterfat and milk protein tests, and the somatic cell count;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (b)(1) of this section, except that contained in producer milk described in § 1036.13(b); and

(3) Such other information with respect to its receipts and utilization of skim milk, butterfat and protein, and somatic cell count as the market administrator may prescribe; and

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section except that receipts of bottling grade milk from dairy farmers shall be reported in lieu of receipts of producer milk. Such report shall in-

clude a separate statement showing the amount of reconstituted skim milk in route disposition in the marketing area.

[43 FR 38798, Aug. 31, 1978, as amended at 58 FR 43510, Aug. 17, 1993]

**§ 1036.31 Payroll reports.**

(a) On or before the 18th day after the end of each month, each handler who pays producers pursuant to § 1036.73(a) shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during such month:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds of milk, and, with respect to final payments, the average butterfat and protein content and somatic cell count of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer;

(5) The net amount of payment to the producer; and

(6) The dates such payments were made.

(b) On or before the 20th day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1036.76(a) shall report to the market administrator with respect to milk received from each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month:

(1) The name of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat and milk protein content, and the somatic cell count, of such milk;

(4) The amount and nature of any deductions, as authorized by the dairy farmer, from the payment for such milk; and